

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

March 4, 1999

DIVISION TWO

[illegible]

The judgment is modified to assess an additional restitution fine of \$200 pursuant to section 1202.4, subdivision (b), to be suspended unless defendant's parole is revoked. The abstract of judgment is ordered amended to reflect this modification. In all other respects, the judgment is affirmed.

Zebrowski, J.

We concur: Boren, P.J.
 Nott, J.

B119468 People (Not for Publication)
v.
Francis

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Zebrowski, J.

B118578 Swanson (Not for Publication)
v.
Adkins, etc., et al.

The judgment is affirmed. Costs to respondent.

Zebrowski, J.

We concur: Nott, Acting P.J.
Mallano, J. (Assigned)

DIVISION TWO (Continued)

B119921 Flame Fighters, Inc. (Not for Publication)
 v.
 JMCN, Inc.

The order denying tenant's petition to compel arbitration is affirmed. Each side to bear their own costs on appeal.

Zebrowski, J.

We concur: Boren, P.J.
 Nott, J.

B117243 Miller (Not for Publication)
 v.
 American National Can

The appeal is dismissed. Costs to respondent.

Zebrowski, J.

We concur: Boren, P.J.
 Mallano, J. (Assigned)

B114951 VIK Brothers Insurance Group (Not for Publication)
 v.
 Cushing, et al.

The summary judgment is reversed, and the matter is remanded for proceedings consistent with this opinion. The parties are to bear their own costs on appeal.

Zebrowski, J.

We concur: Boren, P.J.
 Nott, J.

March 4, 1999-Continued

DIVISION TWO (Continued)

B109992 Burford (Not for Publication)
v.
Cazares, et al.

The order appealed from (order denying motion to set aside dismissal) is affirmed. Each side to bear their own costs on appeal.

Zebrowski, J.

We concur: Nott, Acting P.J.
Mallano, J.(Assigned)

B126900 Fink (Not for Publication)
v.
Superior Court, Los Angeles County
(Westwood Village Development Company, r.p.i.)

Let a writ of mandate issue directing the superior court to set aside its order granting real parties' motion to compel a further response to interrogatory 6, and issue a new and different order denying the motion. The stay is vacated. Real parties to bear the costs of this petition.

Mallano, J. (Assigned)

We concur: Nott, Acting P.J.
 Zebrowski, J.

DIVISION THREE

B118927 People (Not for Publication)
v.
Jose Francisco Garcia

The judgment is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

March 4, 1999-Continued

DIVISION THREE (Continued)

B115930 People (Not for Publication)
v.
Philemon Leon Y.

The order under review is affirmed, except that it is modified to reflect that appellant's total maximum theoretical period of confinement based on the petitions filed January 20, 1995, June 20, 1995, and July 23, 1997, is two years five months.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B118721 People (Not for Publication)
v.
Michael Kenneth Fischer

The judgment is affirmed.

Croskey, Acting P.J.

We concur: Aldrich, J.
Petersen, J. (Assigned)

B112380 People (Not for Publication)
v.
Philbert Richard Stevens

The judgment is affirmed.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

DIVISION THREE (Continued)

B114887 People (Not for Publication)
v.
Terry Allen Whitaker

The judgment is affirmed, except that the judgment is modified by vacating appellant's previous prison sentence and imposing a sentence of 25 years to life in prison, pursuant to the Three Strikes law, for the sale of a controlled substance; and by striking the sentencing court's credit award. The matter is remanded for further proceedings consistent with this opinion, and the sentencing court is directed to determine and award credit for the actual time appellant spent in jail or prison thus far, and for conduct credits earned in jail thus far. The court's calculation is to be entered without prejudice to appellant's right to receive appropriate behavior and work credits for the entire period of his prison confinement as determined by the California Department of Corrections. The sentencing court is directed to correct its sentencing minute order and amend the abstract of judgment accordingly. The sentencing court is further directed to forward a copy of the amended abstract of judgment to the Department of Corrections.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

B122694 Hector Rosales (Certified for Publication)
v.
Depuy Ace Medical Company

The judgment is reversed. Plaintiff is awarded his costs on appeal.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

March 4, 1999-Continued

DIVISION THREE (Continued)

B116562 Mark Shier (Not for Publication)
v.
Carol F. Garner

The judgment of the trial court is affirmed. Costs on appeal to plaintiff.

Croskey, Acting P.J.

We concur: Kitching, J.
 Petersen, J., J. (Assigned)

B117636 Raymond K. Hamaguchi, et. al. (Not for Publication)
v.
County of Los Angeles, et al.

The judgment is affirmed. Defendants shall recover their costs on appeal.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B111275 Albert Galimidi (Not for Publication)
v.
John Niedermann

The judgment is affirmed. Niedermann is awarded his costs on appeal.

Croskey, J.

We concur: Klein, P.J.
Petersen, J., J. (Assigned)

DIVISION THREE (Continued)

B100677 Leonardo Lansang (Not for Publication)
v.
Dunn Edwards Corporation and John W. Slagle

The judgment is reversed as to plaintiff's first, second, fourth, and fifth causes of action, for employment discrimination in violation of FEHA, wrongful termination in violation of public policy, breach of contract, and intentional infliction of emotional distress. The judgment is affirmed as to plaintiff's third cause of action for tortious breach of the implied covenant of good faith and fair dealing, which cause of action the trial court found plaintiff had voluntarily "withdrawn." Plaintiff shall recover his costs on appeal.

Croskey, J.

We concur: Klein, P.J.
 Kitching, J.

DIVISION FOUR

B112133 State Compensation Insurance Fund (Certified for Publication)
v.
WPS Inc.
Telanoff

The order imposing sanctions against Adam Telanoff, Ronald Telanoff, Telanoff & Telanoff, and WPS, Inc. is reversed. Each party is to bear its own costs on appeal.

Vogel (C.S.), P.J.

We concur: Hastings, J.
 Curry, J.

DIVISION FOUR (Continued)

B113906 Southern Pacific Thrift & Loan (Certified for Partial Publication)
v.
Savings Association Mortgage Co.

The judgment is affirmed. Each party to bear their own costs on appeal.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

DIVISION SIX

B119641 Caine & Weiner Co., Inc. (Not for Publication)
v.
Bursai Corp.
Densitron Corp.

The judgment is affirmed. Respondents are awarded costs on appeal.

Coffee, J.

We concur: Yegan, Acting P.J.
Burke, J. (Assigned)

B119982 Ralph (Not for Publication)
v.
City of Oxnard
Dicarlos, et al.

The order denying preliminary injunction is affirmed. Costs are awarded to respondent.

Burke, J. (Assigned)

We concur: Yegan, Acting P.J.
Coffee, J.

March 4, 1999-Continued

DIVISION SIX (Continued)

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The judgment is amended to include a \$200 restitution fine pursuant to section 1202.45. In all other respects the judgment is affirmed.

Gilbert, Acting P.J.

We concur: Yegan, J.
Coffee, J.

B122515 Santa Barbara County DPSS (Not for Publication)
v.
Laura K.

The judgment (order) is affirmed.

Gilbert, Acting P.J.

We concur: Yegan, J.
Coffee, J.

B120478 People (Not for Publication)
v.
Gomez

The judgment is affirmed.

Gilbert, Acting P.J.

We concur: Yegan, J.
Coffee, J.

March 4, 1999-Continued

DIVISION SEVEN

Court convened at 9:00 A.M.

Present: Lillie, P.J., Johnson, J., Woods, J., Neal, J., and Emma Jean Amos, Deputy Clerk.

Each of the following:

B108331 People v. Dzhulakyan
B112362 People v. Salazar
B117553 People v. Aguilera & Fortino
B117771 People v. Olivas & Griggs
B118612 People v. Pappan
B119295 People v. Mendoza
B119662 People v. Jefferson
B119683 People v. Christopher C.
B120686 People v. Ronneka F.
B120785 People v. Nollins
B121322 People v. Sanchez
B121730 People v. Gary M.
B122371 People v. Eugene R.
B123065 People v. Downing
B123530 People v. Jaimez
B125907 People v. Carrillo
B123777 County of Los Angeles v. Lisa S.
B122159 Adams Financial v. Jones
B115762 People v. Marjanian
B120793 People v. Blake

Argument waived, cause submitted.

B120106 People
 v.
 Barajas

Merits:

Argued by Allen Weinberg for appellant and by David A. Wildman, deputy attorney general, for respondent. Cause submitted.

DIVISION SEVEN (Continued)

B120769 People
 v.
 Luhrsen

Merits:

Argued by Ronald Richards for appellant and by Donald J. Oeser, deputy attorney general, for respondent. Cause submitted.

B118815 People
 v.
 Carl Henry S.

Merits:

Argued by Katharine Greenebaum for appellant and by Beverly K. Falk, deputy attorney general, for respondent. Cause submitted.

B122266 People
 v.
 Marks

Merits:

Argued by Leonard J. Klaif for appellant and by Renee Rich, deputy attorney general, for respondent. Cause submitted.

B110273 People
 v.
 Rathbun

Merits:

Argued by Mark A. Hart for appellant and by Michael J. Egan, deputy attorney general, for respondent. Cause submitted.

B119195 People
 v.
 Vargas

Merits:

Argued by Philip A. Demass for appellant and by Valerie A. Baker, deputy attorney general, for respondent. Cause submitted.

DIVISION SEVEN (Continued)

B110382 People
 v.
 Lewis and Brisco

Appearances:

Michael R. Totaro for appellant and by Donald Oeser, deputy attorney general, for respondent and no appearance by counsel for respondent Lewis. Argument waived, cause submitted.

B110749 People
 v.
 Knight

Merits:

Argued by David Kenner and Armand Arabian for appellant and by Steven Matthews, deputy attorney general, for respondent. Cause submitted.

B122937 Taite
 v.
 Gliksman

Merits:

Argued by Shanise M. Black for respondent and counsel for appellant having waived. Cause submitted.

B126092 Bazyler
 v.
 S.C.L.A.
 Hawthorne Savings

Merits:

Argued by Joe M. Agapay for petitioner and by Roger P. Heyman for real party in interest. Cause submitted.

DIVISION SEVEN (Continued)

B124491 Castillo
 v.
 W.C.A.B.
 State Compensation Ins. Fund

Merits:
Argued by Harry Samarghachian for petitioner and by Louis Harris for respondent. Cause submitted.

B111374 People
 v.
 Thomas

Merits:
Argued by John Lanahan for appellant and by Carol Frederick Jorstad, deputy attorney general, for respondent. Cause submitted.

B120418 People
 v.
 Conrad

Matter ordered off calendar.

B122382 Seacall Development
 v.
 Santa Monica Rent Control Board

Oral argument continued to May 6, 1999, at 2:00 p.m.

B122483 Pacific Indemnity Company
 v.
 American Motorists Ins. Company

Oral argument waived, cause submitted.

DIVISION SEVEN (Continued)

B127972 Lieutenant T.
 v.
 S.C.L.A.
 (D.C.F.S., r.p.i.)

Merits:

Argued by Amy M. Pellman for petitioner and by Doraine F. Meyer for real party in interest. Cause submitted.

B123451 Schefffield Medical Group
 v.
 W.C.A.B.
 Calif. Indemnity Insurance

Merits:

Argued by Peter G. McAllen for petitioner and by Larry Rappaport for respondent. Cause submitted.

Court recessed at 12:05.

The Court reconvened at 2:00 P.M.

Present: Lillie, P.J., Johnson, J., Woods, J., Neal, J., and Emma Jean Amos, Deputy Clerk.

B117786 Smillie
 v.
 Long Beach Memorial Medical Center

Oral argument continued to May 6, 1999, at 2:00 p.m.

B122382 Seacall Development
 v.
 Santa Monica Rent Control Board

Oral argument continued to May 6, 1999, at 2:00 p.m.

DIVISION SEVEN (Continued)

B117797 RTC Mortgage 1994-S2
 v.
 Shlens

Merits:

Argued by James L. Goldman for appellant and by Jeffrey P. Nolan for respondent. Cause submitted.

B120371 Mitsui O.S.K. Lines, Limited
 v.
 Dynasea Corporation

Merits:

Argued by David Weil for appellant and by Michael W. Lodwick for respondent. Cause submitted.

B115053 Lawson
 v.
 Vencor Hospital California, Inc.

Merits:

Argued by Benjamin Robinson for appellant and by B. Scott Silverman for respondent. Cause submitted.

Court adjourned at 3:10 p.m.